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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,772	03/09/2004	Dong Zhou	6655P022	4174

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EXAMINER

LEWIS, CHERYL RENE A

ART UNIT	PAPER NUMBER
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2167

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,772

Applicant(s)

ZHOU ET AL.

Examiner

Cheryl Lewis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-29 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 12, 13, 14, 15, 25, 28, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 12, 13, 14, 15, 25, 28, and 29 recite "preference information" and "service object".

What is preference information and what is a service object?

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 12, 13, 14, 15, 25, 28, and 29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106 IV.B.2.(b)

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A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. *Schrader*, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

6. Claims 1, 12, 15, 25, and 29 are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts. **The use of a computer has not been indicated.**

7. Claims 12 and 29 are not limited to tangible embodiments. In view of the applicants' disclosure, in the specification the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., computer) and intangible embodiments (e.g., carrier waves). As such, the claims are not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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9. Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Novaes et al. (Pat. No. 6,823,356 B1 filed May 31, 2000, hereinafter Novaes).

10. Regarding Claim 1, 12, Novaes teaches a method, system and program products for serializing replicated transactions of a distributed computing environment.

The method and associated system for serializing replicated transactions of a distributed computing environment as taught or suggested by Novaes includes:

gathering run-time capability and preference information for an application (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67), client device and server regarding an application service object (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67); and directing replication of at least one application service object from the server to the client device based on the client, the server, and the application run-time capability and preference information (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

11. Regarding Claim 2, Novaes teaches the client device and preference information comprises central processing unit (CPU) processing power (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

12. Regarding Claim 3, Novaes teaches the capability and preference information for the application, the client and the server comprise data consistency requirements (col.

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3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

13. Regarding Claim 4, Novaes teaches the server capability and preference information comprise connectivity of the server (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

14. Regarding Claim 5, Novaes teaches run-time capability and preference information for the application, the client and server comprises client-specific, application-specific, and server specific cost metrics (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

15. Regarding Claim 6, Novaes teaches whether to invoke at least one service object on the server (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

16. Regarding Claim 7, Novaes teaches querying a synchronization helper acquired from the preference information to determine when to synchronize application data replicated on the client device with a copy of the application data on the server (col. 3, lines 41-67, col. 4, lines 1-67, col. 5, lines 1-67, col. 6, lines 1-67, col. 7, lines 1-67, col. 9, lines 1-67, col. 10, lines 1-67).

17. Regarding Claims 8-11, 16-24, 26, and 27, the limitations of these claims have been noted in the rejections of claims 1-7 presented above. They are therefore rejected as set forth above.

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18. Regarding Claims 13, 14, and 15, 25, 28, and 29, the limitations of this claim has been noted in the rejections of claims 1 and 12 presented above. In addition, Novaes teaches a network interface, replication manager, preference manager (figures 3 and 22B).

NAME OF CONTACT

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

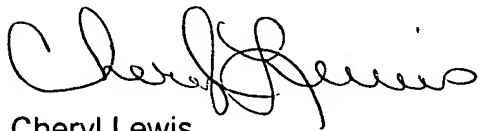
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Cheryl Lewis". The signature is fluid and cursive, with the first name "Cheryl" being more prominent than the last name "Lewis".

Cheryl Lewis
Patent Examiner
August 19, 2006